

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

ALI M. GILBERTSON, Plaintiff, vs. CAROLYN W. COLVIN, Acting Commissioner of Social Security, Defendant.	CIV. 12-4176-KES ORDER GRANTING MOTION FOR ATTORNEY'S FEES
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Plaintiff's attorney, Steven R. Pfeiffer, moves the court pursuant to 42 U.S.C. § 406(b) for authorization of attorney fees for federal court representation in this case. The Commissioner does not object to the request.

Fees under 42 U.S.C. § 406(b) are paid from the claimant's benefits. The fees should be reasonable and not in excess of 25 percent of the total past-due benefit to which the claimant is entitled by reason of the judgment. 42 U.S.C. § 406(b)(1). The court should review the fee arrangement between the lawyer and client to assure that the agreement yields a reasonable result. *Gisbrecht v. Barnhart*, 535 U.S. 789, 796 (2002). As long as the fee is reasonable, courts should use attorney-client contingency fee agreements to determine the fees to be awarded. *See id.* at 808.

In this action, Pfeiffer represented plaintiff, Ali M. Gilbertson, for over two years. The claim involved both physical and mental impairments. Following a civil action that was pending before this court, Gilbertson was awarded \$99,320

in past-due benefits. The written contingency fee agreement provides for a 25 percent contingent fee. Pfeiffer spent 53.4 hours on the federal action.

Pfeiffer is requesting a 25 percent fee in the amount of \$24,830 less the \$6,000 paid at the administrative level for a total federal fee of \$18,830. The court finds Pfeiffer's fee request to be reasonable under the facts of this case.

Pfeiffer acknowledges that this fee (\$18,830) should then be reduced by the EAJA fee previously paid in this matter of \$9,314.70, pursuant to *Gisbrecht*, 535 U.S. at 796. With this credit, the net additional fee owed by Gilbertson to Pfeiffer is \$9,515.30. Therefore, it is

ORDERED that Pfeiffer's motions (Dockets 29 and 30) for award of attorney fees pursuant to 42 U.S.C. § 406(b) in the net amount of \$9,515.30 is granted.

Dated January 6, 2015.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE